



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 17

RIN 2900-AQ62

Health Professional Scholarship Program

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations that govern the Health Professional Scholarship Program (HPSP). The amended regulations ensures that VA award not less than 50 HPSP scholarships each year to students who are accepted for enrollment or are enrolled in a program of education or training that leads to employment as a physician or dentist until such a date as VA determines the current staffing shortage is reduced. The amended regulation will also expand the number of years of obligated service that a HPSP participant would have to serve in VA as a physician or a dentist. This rulemaking implements the mandates of the VA MISSION Act of 2018.

DATES: This final rule is effective [INSERT 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Nicole Nedd, Director, Scholarships and Clinical Education. 1250 Poydras Street. Suite 1000 New Orleans, LA 70113. (504) 507-4895 (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In a document published in the Federal Register on June 25, 2019, VA published a proposed rule, which proposed to revise its regulations that govern VA's Health Professional Scholarship Program (HPSP). 84 FR

29824. VA provided a 60-day comment period, which ended on August 26, 2019. We received two comments on the proposed rule.

On June 6, 2018, section 301 of Public Law 115-182, the John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018, or the VA MISSION Act of 2018, amended title 38 of the United States Code (U.S.C.) 7612(b) and 7617, which govern the HPSP. This program is regulated under title 38 of the Code of Federal Regulations (CFR) 17.600 through 17.612. Section 7612(b) of 38 U.S.C. was amended to state that VA will ensure that not less than 50 HPSP scholarships are awarded each year to students who are accepted for enrollment or are enrolled in a program of education or training that leads to employment as a physician or dentist until such a date as VA determines that there is a staffing shortage of less than 500 individuals in these health care professions in VA. The VA MISSION Act of 2018 further amended section 7612(b) to state that after such a date, VA will award HPSP scholarships each year to not less than 10 percent of the total staffing shortage of physicians and dentists. Section 7612 was also amended by expanding the number of years of obligated service that a participant who pursues a course of study leading to employment as a physician or dentist would have to serve in VA in a discipline for which the HPSP was awarded. For those individuals who are accepted for enrollment or enrolled in a program of education or training leading to employment as a physician or dentist, instead of one year of obligated service for each school year or part thereof for which the participant was awarded a scholarship, the VA MISSION Act of 2018 requires that the participant serve 18 months of obligated service for each school year or part thereof for which the

participant was awarded a scholarship. The VA MISSION Act of 2018 additionally amended 38 U.S.C. 7617 by adding that a participant has breached the service agreement if the participant fails to successfully complete post-graduate training leading to eligibility for board certification for employment as a physician. This final rulemaking implements the mandates of section 301 of the VA MISSION Act of 2018 by amending 38 CFR 17.603, 17.607, and 17.610.

One commenter was in favor of the rule and stated that making more scholarships available for students who are going to study in a field that is quite expensive is a great idea that will help society in the long run, especially fields leading to employment as a physician or dentist. However, the commenter recommended that the minimum scholarship number should always be 10 percent the number of vacancies so if there are 600 vacancies, VA should be required to give out 60 scholarships instead of capping at 50 so that more and more people can be helped. As previously stated in this rule, 38 U.S.C. 7612(b) states that not less than 50 HPSP scholarships are awarded each year to students who are accepted for enrollment or are enrolled in a program of education or training that leads to employment as a physician or dentist until such a date as VA determines that there is a staffing shortage of less than 500 individuals in these health care professions in VA. Therefore, for instances where there are 600 vacancies, as the commenter stated, there would not be a cap at 50 scholarships. Fifty scholarships would be the minimum amount of scholarships that may be offered to qualifying individuals. The commenter requested that the minimum number of scholarships offered by VA always be ten percent of the shortage of VA physicians and dentists. However, the statutory ten percent requirement only comes

into effect when the number of vacancies is less than 500. When there are more than 500 vacancies for physicians and dentists, VA may offer not less than 50 HPSP scholarships per year. VA has the authority to provide more than 50 scholarships, but VA chooses to maintain the statutory limit in order to allow VA to utilize HPSP funds in disciplines other than physician and dentists as allowed under §17.603(b)(2) for other healthcare disciplines experiencing severe staffing shortages. We are not making any changes based on this comment.

Another commenter was in support of the rule stating that they are pleased that VA is making the HPSP available to other health care professionals and encourages VA to place priority on the inclusion of nurse practitioners in this program. The commenter further stated that VA has long recognized the value of nurse practitioner-led care and it is important that these scholarship opportunities be available to nurse practitioners as well as other health care professionals to provide veterans with a robust health care workforce. The HPSP has always been available to applicants who pursue a course leading to nurse practitioner. Current § 17.603(b) states that VA will grant HPSP scholarships in a course of study in those disciplines or programs where recruitment is necessary for the improvement of health care of veterans. Those disciplines or programs are listed in 38 U.S.C. 7401(1) and (3), which includes nurse practitioners. However, the purpose of this rulemaking is to implement the mandates of the VA MISSION Act of 2018 by expanding the number of HPSP that may be awarded to individuals who pursue a program of education or training that leads to employment as a physician or dentist, not nurse practitioners. Therefore, we are not making any changes based on this comment.

Based on the rationale set forth in the Supplementary Information to the proposed rule and in this final rule, VA is adopting the proposed rule with no edits to the rule.

Paperwork Reduction Act

Although this action contains provisions constituting collections of information at 38 CFR 17.604, which is not being amended by this rule, under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521), no new or proposed revised collections of information are associated with this final rule. The information collection requirements for § 17.604 are currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control numbers 2900-0793.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The provisions associated with this rulemaking are not processed by any other entities outside of VA. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Executive Orders 12866, 13563 and 13771

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory

Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at <http://www.va.gov/orpm> by following the link for VA Regulations Published from FY 2004 through FYTD.

This final rule is not expected to be an EO 13771 regulatory action because this final rule is not significant under EO 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Catalog of Federal Domestic Assistance

There are no Catalog of Federal Domestic Assistance numbers and titles for this rule.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Pamela Powers, Chief of Staff, Department of Veterans Affairs, approved this document on January 24, 2020, for publication.

Consuela Benjamin,
Regulation Development Coordinator,
Office of Regulation Policy & Management,
Office of the Secretary,
Department of Veterans Affairs.

For the reasons set forth in the preamble, we are amending 38 CFR part 17 as follows:

PART 17 – MEDICAL

1. The general authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

* * * * *

2. Amend § 17.603 by revising paragraph (b) to read as follows:

§ 17.603 Availability of HPSP scholarships.

* * * * *

(b) *Qualifying fields of education--*(1) *Physicians and dentists--*(i) VA will award not less than 50 HPSP scholarships each year to individuals who are accepted for enrollment or are enrolled in a program of education or training leading to employment as a physician or dentist until such date as VA determines that the staffing shortage of physicians and dentists in VA is less than 500.

(ii) Once the staffing shortage of physicians and dentists is less than 500, VA will award HPSP scholarships to individuals in an amount equal to not less than ten percent of the staffing shortage of physicians and dentists in VA.

(2) *Other health care professions.* VA will grant HPSP scholarships in a course of study in those disciplines or programs other than physician or dentist where recruitment is necessary for the improvement of health care of veterans as listed in 38 U.S.C. 7401(1) and (3).

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3. Amend § 17.607 by revising paragraph (c)(1) to read as follows.

§17.607 Obligated service.

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(c) *Duration of service--(1) Full-time student--(i) Physician or dentist.* A participant who attended school as a full-time student will agree to serve as a full-time physician or dentist in the Veterans Health Administration for 18 months for each school year or part thereof for which a scholarship was awarded.

(ii) *Other health care profession.* A participant who attended school as a full-time student in a health care profession other than physician or dentist will agree to serve as a full-time clinical employee in the Veterans Health Administration for 1 calendar year for each school year or part thereof for which a scholarship was awarded, but for no less than 2 years.

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4. Amend § 17.610 by:

- a. Redesignating paragraphs (b)(4) and (b)(5) as paragraphs (b)(5) and (b)(6).
- c. Adding a new paragraph (b)(4).

The addition to read as follows

§ 17.610 Failure to comply with terms and conditions of participation.

* * * * *

(b) * * *

(4) Who is enrolled in a program or education or training leading to employment as a physician, fails to successfully complete post-graduate training leading to eligibility for board certification in a specialty.

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